

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

EDGAR MARTINEZ VELLON, ADC #134175
and JESSE ANTONIO FERNANDEZ

PLAINTIFFS

v.

4:13CV00397-KGB-JTK

AARON BROCK, et al.

DEFENDANTS

ORDER

Plaintiffs Vellon and Fernandez are inmates who filed a Complaint (Doc. No. 1) pursuant to 42 U.S.C. § 1983. Although Plaintiff Vellon has submitted a Motion to Proceed In Forma Pauperis (IFP) (Doc. No. 1), Plaintiff Fernandez has not submitted the \$400 filing fee or an IFP Motion.¹

Under the Prison Litigation Reform Act (“PLRA”), a prisoner who is permitted to file a civil action in forma pauperis still must pay the full statutory filing fee of \$350.² 28 U.S.C. § 1915(b)(1). The only question is whether a prisoner will pay the entire filing fee at the initiation of the proceeding or in installments over a period of time. Ashley v. Dilworth, 147 F.3d 715, 716 (8th Cir. 1998). Even if a prisoner is without assets and unable to pay an initial filing fee, he will be allowed to proceed with his § 1983 claims and the filing fee will be collected by the Court in installments from the prisoner’s inmate trust account. 28 U.S.C. § 1915(b)(4). **If the prisoner’s case is subsequently dismissed for any reason, including a determination that it is frivolous,**

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Although both Plaintiffs signed the Complaint, no allegations of the Complaint relate to Plaintiff Fernandez; therefore, it is unclear to the Court whether he intends to be a party to this action, or is listed for other purposes, such as a witness.

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Effective May 1, 2013, the statutory filing fee for civil actions increased to \$400, due to the implementation of a \$50 administrative fee. This \$50 fee does not, however, apply to in forma pauperis actions.

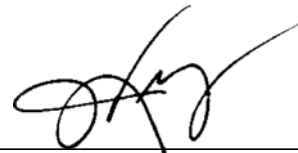
malicious, fails to state a claim, or seeks monetary relief against a defendant who is immune from such relief, the full amount of the \$350 filing fee will be collected and no portion of this filing fee will be refunded to the prisoner.

The PLRA requires a Plaintiff to submit a proper and complete Motion to Proceed In Forma Pauperis, along with calculation sheet prepared and signed by an authorized officer of the detention center. Plaintiff Fernandez must submit, within thirty (30) days from entry of this Order, either: (1) the statutory filing fee of \$400; or (2) a proper and complete IFP Motion, **with the required calculation sheet signed by an authorized official of the detention center at which he is confined**. If Plaintiff Fernandez does not intend to be a party to this lawsuit, he should file a Motion to be Dismissed. Accordingly,

IT IS THEREFORE ORDERED that Plaintiff Fernandez must submit either the \$400 statutory filing fee or an In Forma Pauperis Motion within thirty days of the entry date of this Order.³ The Clerk shall send Plaintiff Fernandez an IFP Motion, together with the filing fee calculation sheet.

The Clerk also shall send a copy of this Order to the Pope County Detention Center, 10 County Complex Circle, Russellville, AR 72801.

IT IS SO ORDERED this 12th day of July, 2013.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE

The Plaintiff is hereby notified of his responsibility to comply with the Local Rules of the Court, including Rule 5.5(c)(2), which states: “. . . If any communication from the Court to a pro se plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding pro se shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.”